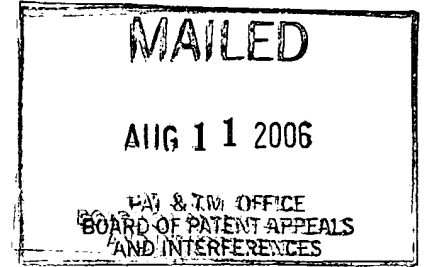


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MAU-SONG CHO,
LARRY YUJIRI,
and DAVID P. DIXON

Application No. 10/663,310



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 8, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

On January 25, 2006, appellants filed an Appeal Brief. A review of the file reveals that the Summary of Claimed Subject Matter does not map the claimed invention to the independent claims as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number,

and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

On March 13, 2006, an Examiner's Answer was entered into the record.

In the Evidence Relied Upon section page 2, paragraph 8, the examiner relied on the following references:

6,242,740	Luukanen	6-2001
6,531,701	Chou	3-2003
6,853,452	Laufer	2-2005

A review of the file reveals that references Luukanen (U.S. Patent No. 6,242,740), Laufer (U.S. Patent No. 6,531,701), Chou (U.S. Patent 6,531,701) in view of Arnone et al. (U.S. Application 2004/0155665 A1) were used in the rejection of claims 4, 6-11, 26-44, 52-57, as stated in the Group of Rejection, paragraph (9) of the examiner's answer. The Manual of Patent Examining Procedure in § 1207.02 states:

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g. patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

The examiner must submit a correct examiner's answer that will include in the Evidence Relied Upon section, the list of all references used in the rejections on appeal. Appropriate correction is required.

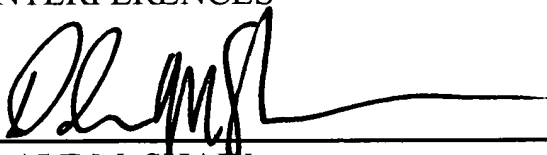
Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of January 25, 2006 defective;
- 2) request applicant to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the substitute Appeal Brief;
- 4) vacate the Examiner's Answer mailed March 13, 2006, and issue a revised Examiner's Answer having the missing reference listed under the Evidence Relied Upon, paragraph (8);

- 5) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
DALE M. SHAW
Deputy Chief Appeal Administrator
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DMS/dal

Application No. 10/663,310

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